

REMARKS

Claims 4, 5, 14, and 21 are pending, claims 1-3 having been canceled herein, and claims 6-13, and 15-20 having been previously canceled. Claim 4 has been amended to put it in independent form by incorporating elements of claim 1, from which it depended. Claim 5 has been amended to depend from claim 4. Claims 14 and 21 have been amended to replace the compound definition in each claim with a reference to the compound of claim 4.

Applicants submit that none of these amendments constitute new matter.

Rejection of Claims 5, 14, and 21 under 35 U.S.C. § 112, first paragraph

Claims 5, 14, and 21 were rejected under 35 U.S.C. §112, first paragraph, “because the specification, while being enabling for the scope embraced by claim 4, does not reasonably provide enablement for remaining scope.” Applicants have amended claim 4 to put it in independent form, and amended claim 5 to depend from claim 4. Claim 14 is directed to a pharmaceutical composition which includes a compound of claim 4. Claim 21 is directed to a method which includes a step of administering a compound of claim 4.

Applicants submit that claims 5, 14, and 21 are enabled for the same reasons claim 4 is enabled. Applicants, therefore, respectfully request that this rejection be withdrawn.

Rejection of claims 4, 5, 14, and 21, under 35 U.S.C. §102(e) for anticipation by Gielen (WO 2004020410)

Claims 4, 5, 14, and 21 were rejected under 35 U.S.C. §102(e) for anticipation by Gielen. The Office Action stated that compound species illustrated in Examples 34 and 99 of Gielen fall within the scope of the present claims. Applicants submit that the species of Example 99 does not fall within the scope of claim 4, after amendment herein, claim 5 depends from claim 4, and the compounds used or included in the formulations and methods of claims 14 and 21 are compounds of claim 4. Therefore, none of the claims are anticipated by Example 99 of Gielen.

Applicants also submit that the compound of claim 4 is not anticipated by the compound of Example 34 of Gielen. The compound of Example 34 includes a pyrrolidinocarbonyl group at what would be the R⁶ position of the compound of formula (I) of claim 4. The definition of R⁶ of formula (I) of claim 4 has been amended to remove the pyrrolidinocarbonyl group.

Applicants respectfully submit that none of the present pending claims are anticipated by Gielen. Applicants, therefore, respectfully request that the rejection of claims 4, 5, 14, and 21, under 35 U.S.C. §102(e) be withdrawn.

Rejection of Claims 4, 5, 14, and 21 for Obviousness-Type Double Patenting over claims 1-3, 5-10, and 12-17 of U.S. Patent No. 7,230,017

U.S. Patent Number 7,230,017 issued from the National Stage of the PCT patent application published as Gielen. Applicants submit that, after amendment herein, the present pending claims and the claims of the '017 patent are patentably distinct. They do not embrace overlapping subject matter, nor, would the subject matter of the present claims have been obvious to one of ordinary skill in the art at the time of the invention. Therefore, Applicants respectfully request that the rejection of claims 4, 5, 14, and 21 for obviousness-type double-patenting be withdrawn.

SUMMARY

For reasons provided above, Applicants submit that all the present pending claims (i.e. claims 4, 5, 14, and 21) are in condition for allowance, after amendment as set forth herein above. Issuance of all the claims is, therefore, requested. The Examiner is invited to contact the undersigned at the telephone number given below, should she wish to discuss the present amendments or suggest changes to the claims that could expedite prosecution.

Respectfully submitted,

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